

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

A JOINT APPLICATION BY LYDA GAS)	
COMPANY, JUSTICEVILLE GAS, INC.)	
AND CASE ENTERPRISES, INC. FOR)	CASE NO.
APPROVAL OF THE ACQUISITION OF)	90-111
THE ASSETS OF LYDA GAS COMPANY)	
AND JUSTICEVILLE GAS, INC. BY)	
CASE ENTERPRISES, INC.)	

O R D E R

This matter arising upon petition of Case Enterprises, Inc. ("Case Enterprises") filed April 30, 1990 pursuant to 807 KAR 5:001, Section 7, and KRS 61.878(1)(a) for confidential protection of the personal financial statement of Jean Ann Case, chief officer of Case Enterprises, on the grounds that public disclosure would constitute an unwarranted invasion of Jean Ann Case's privacy, and it appearing to this Commission as follows:

Case Enterprise has filed a joint application with Justiceville Gas, Inc. and Lyda Gas Company for the approval of the acquisition of the assets of Lyda Gas Company and Justiceville Gas, Inc. by Case Enterprises. In support of the request, Case Enterprises has submitted, as Exhibit D to the application, the personal financial statement of Jean Ann Case as chief officer of Case Enterprises. By this petition, Case Enterprise seeks to protect the personal financial statement as confidential.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to

cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. The petition filed by Case Enterprises satisfies neither requirement and the request cannot be granted on that basis.

KRS 61.878(1)(a) exempts from disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." This provision is intended to exempt from public disclosure any information contained in public records of a personal nature where the potential harm to the privacy interest of the individual outweighs the general public's interest in the information. Board of Education of Fayette County vs. Lexington-Fayette Urban County Human Rights Commission, Ky. App., 625 S.W.2d 109, 111 (1981). Personal financial statements fall within this exemption and are protected from disclosure unless there is an overriding public interest in the information. No such overriding interest appears to be present in this case, and the information should be withheld from public disclosure.

This Commission being otherwise sufficiently advised,

IT IS ORDERED, that:

1. The personal financial statement of Jean Ann Case submitted in support of the application herein, which Case Enterprises has petitioned be withheld from public disclosure,

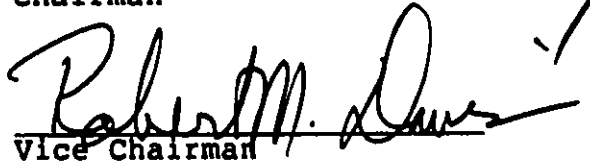
shall be held and retained by this Commission as confidential and shall not be open for public inspection.

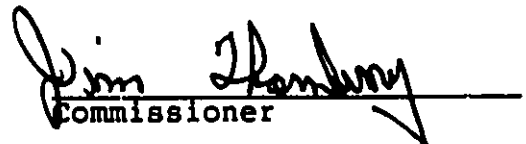
2. Case Enterprises shall, within 10 days of this Order, file an edited copy of the financial statement with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 29th day of May, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director